

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TERESA FARRELL,

Plaintiff,

-against-

KING KULLEN GROCERY CO., INC.,

Defendant.
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LINDSAY, Magistrate Judge:

Before the court is the plaintiff's motion to amend the joint pretrial order, referred to the undersigned by District Judge Seybert. Specifically, the plaintiff seeks to add the names of four doctors who treated the plaintiff for her neck injury to the witnesses list. Counsel for the plaintiff contends that the names were left out of the pretrial order because he was suffering from an illness when the parties prepared the joint pretrial order, which impeded his ability to complete the witness list. The defendant opposes the motion arguing that the plaintiff should not be permitted to add four "expert witnesses" on the eve of trial given that she has never provided any expert witness information. The defendant contends that eighteen months ago it requested that the plaintiff provide it the names of her experts, the substance of the facts and opinions on which they are expected to testify and the grounds for their opinions. The plaintiff responded that she was unable to provide expert information at that time and has not updated the response to date.

As a threshold matter, the plaintiff has not characterized the four doctors as expert witnesses rather, they are described as treating physicians. Accordingly, the court need not address the defendant's argument with respect to the plaintiff's failure to comply with expert discovery requirements. To the extent the plaintiff seeks to add the four doctors to the joint pretrial order as fact witnesses, that motion is granted. The plaintiff has indicated that the defendant was aware that the plaintiff was treated by the four doctors but has not stated what if any discovery was conducted with respect to that treatment. If the defendant requires additional discovery as a result of this ruling, it may make an application for the additional discovery by May 8, 2006.

Dated: Central Islip, New York
April 26, 2006

SO ORDERED:

/s/
ARLENE R. LINDSAY
United States Magistrate Judge